IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 19TH NOVEMBER 2007 / 28TH KARTHIKA 1929

Bail Appl..No. 6946 of 2007()

CRIME NO.261/2007 OF CHEVAYUR POLICE STATION

PETITIONERS - 1ST AND 2ND ACCUSED:

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1. VIPIN M.P., S/O.BALAN,
   MANATHAPARAMBATH HOUSE, P.O.VENGALI,
   KOZHIKODE-10.

2. AJESH P., S/O.VIJAYAN,
   KALOOT VAYAL, P.O. VENGARI,
   KOZHIKODE-10.

BY ADV. SRI.A.K.ABDUL AZEEZ

RESPONDENTS: STATE/COMPLAINANT:

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1. STATE OF KERALA REPRESENTED BY THE
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
   CHEVAYUR POLICE STATION,
   KOZHIKODE DISTRICT.

BY PUBLIC PROSECUTOR ADV.SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No. 6946 of 2007

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Dated this the 19th day of November, 2007

ORDER

Application for anticipatory bail. The petitioners face allegations for offences punishable under Sections 341 and 326 IPC. It is alleged that the petitioners have assaulted the de facto complainant with dangerous bricks resulting in a fracture of the skull bone of the victim . The alleged motive is the objection raised by the de facto complainant / victim against teasing of the girls of the locality by the petitioners. Crime has been registered. The petitioners are named in the FIR. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. They are victims of aggression by the de facto complainant. The de facto complainant has a questionable past. He is a drug addict. He has attempted to commit suicide. He allegedly attacked the petitioners and in that incident, the de facto complainant must have suffered injuries. The petitioners may, in these circumstances, be granted anticipatory bail, prays the learned

counsel for the petitioners.

3. The learned Public Prosecutor opposes the application. There is no merit in the submission of the petitioners that they are the victims of aggression. The petitioners have so far not filed any complaint at all. There is absolutely no indications point to the probability of the said theory. The petitioners may be directed to surrender before the learned Magistrate or the Investigating Officer and then seek regular bail, submits the learned Public Prosecutor.

4. I have considered all the relevant inputs. I find merit in the opposition by the learned Public Prosecutor. At the moment and with the available inputs, I find absolutely nothing to infer that the allegations are totally false and are raised vexatiously against the petitioners. I find no features in this case suggesting the need for invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This, I agree with the learned Public Prosecutor, is a fit case where the petitioners must appear before the learned Magistrate and seek regular bail in the ordinary and normal course.

5. In the result, this petition is dismissed. Needless to say,

if the petitioners appear before the Investigating Officer or the learned Magistrate and apply for bail,after giving sufficient prior notice to the Prosecutor, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE